REMARKS

The following issues are outstanding in the pending application:

- Claims 25-28 are rejected under 35 U.S.C. 112, second paragraph;
- Claims 25-28 are rejected under 35 U.S.C. 112, first paragraph;
- Claims 1-3, 7, 8, 11-14, 16-21, and 25-28 are rejected under 35 U.S.C. 102;
- Claims 1-4, 16, 17, 20 and 21 are rejected under 35 U.S.C. 102;
- Claims 1-3, 5, 12, 13, 16, 17, and 20-22 are rejected under 35 U.S.C. 103; and
- Claims 1, 2, 9, 10, 12 and 16 are rejected under 35 U.S.C. 103.

Specification Amendments

Paragraph [0090] has been amended to correct a typographical error.

Claim Amendments

In order to more clearly define the subject matter of the invention, independent claims 1 and 20 have been amended to recite that the gelled food product contains the gelling agent in the range of 5.1-30% w/w. Support for this amendment is found in paragraph [0046]. Claims 3, 4, 25 and 27 have been cancelled. Claims 6, 16, 26 and 28 have been amended. No new subject matter has been added.

35 USC § 112

Claims 25-28 have been rejected under 35 USC 112, second paragraph because the limitation "the starch ingredient" has insufficient antecedent basis. Claims 25 and 27 have been cancelled and claims 26 and 28 have been amended in which the phrase "starch ingredient" has been replaced with the phrase "food material." Applicant respectfully submits that the rejection under 35 USC 112, second paragraph has been overcome.

35 USC § 112

Claims 25-28 have been rejected under 35 USC 112, first paragraph as the claims contain subject matter not described in the specification. Support for the limitation of the food material being greater than 47% of the gelled food product is found in Example 13, in the table of paragraph [0090] which shows the cooked rice to be 47.5% of the total ingredients for the Mexican Rice dish. Applicant respectfully submits that the rejection under 35 USC 112, first paragraph has been overcome.

35 USC § 102

Claims 1-3, 7, 8, 11-14, 16-21, and 25-28 have been rejected under 35 U.S.C. 102 as having subject matter anticipated by U.S. Pat. No. 6,676,986 to Huttenbauer. Applicant respectfully traverses this rejection.

Huttenbauer discloses a process for preparing formed food puree products in which 0.2 to 4% of a gelling agent is added as a lubricant to the comminuted food product.

A claim is anticipated only if each and every element as set forth in the claim is found either expressly or is inherently described in a single prior art reference. *Verdegaal Bros. v Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987). Applicant respectfully submits that nowhere does the Huttenbauer reference teach or disclose a method of preparing gelled food products in which the food product contains the gelling agent in the range of 5.1-30% w/w. The Huttenbauer reference teaches only the use of 0.2 to 4% of a gelling agent as a lubricant. Therefore, Applicant respectfully asserts that since Huttenbauer fails to teach or suggest each and every limitation of the presently amended independent claims 1 and 20, a rejection under 35 U.S.C. 102(b) cannot be sustained. Since dependent claims 2, 3, 7, 8, 11-14, 16-19, 21, and 25-28 depend at least in part on amended independent claim 1 or 20, they by definition are not anticipated by the Huttenbauer reference. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the outstanding rejection of claims 1-3, 7, 8, 11-14, 16-21, and 25-28 under 35 U.S.C. 102 as having subject matter anticipated by U.S. Pat. No. 6,676,986 to Huttenbauer.

35 USC § 102

Claims 1-4, 16, 17, 20 and 21 have been rejected under 35 U.S.C. 102 as having subject matter anticipated by U.S. Pat. No. 6,770,312 to Yamamoto. Applicant respectfully traverses this rejection.

Yamamoto describes a process for producing frozen foods in which starch in the amount of 0.1 to 10% is added to a washed rice or to water for impregnating the rice with the starch prior to adding the rice to a sauce.

A claim is anticipated only if each and every element as set forth in the claim is found either expressly or is inherently described in a single prior art reference. *Verdegaal Bros. v Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987). Applicant respectfully submits that nowhere does the Yamamoto reference teach or disclose a method of preparing gelled food products in which the food product contains the gelling agent in the range of 5.1-30% w/w. The Yamamoto reference teaches only the use of starch in the amount of 0.1 to 10% added to a washed rice or to water for impregnating the rice with the starch prior to adding the rice to a sauce. Therefore, Applicant respectfully asserts that since Yamamoto fails to teach or suggest each and every limitation of the presently amended independent claims 1 and 20, a rejection under 35 U.S.C. 102(b) cannot be sustained. Since dependent claims 2-4, 16, 17, and 21 depend at least in part on amended independent claim 1 or 20, they by definition are not anticipated by the Yamamoto reference. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the outstanding rejection of claims 1-4, 16, 17, 20 and 21 under 35 U.S.C. 102 as having subject matter anticipated by U.S. Pat. No. 6,770,312 to Yamamoto.

35 USC § 103

Claims 1-3, 5, 12, 13, 16, 17, and 20-22 have been rejected under 35 U.S.C. 103 as having subject matter unpatentable over U.S. Pat. No. 6,743,452 to Gosselin in view of U.S. Application No. 2003/0203096 to Hamm. Applicant respectfully traverses this rejection.

Gosselin discloses a one-dish frozen dinner product having an integral bread ring. The frozen dinner product includes a sauce in the range of 22.6 to 31.1% of the food product. Hamm teaches a universal sauce that includes a gelling agent in the range of 3.05 to 5.9%.

In considering obviousness, all claim limitations must be considered. *In re Evanega*, 829 F.2d 1110, 4 USPQ2d 1249 (Fed. Cir 1987). Amended independent claims 1 and 20 include the limitation that the gelled food product contains the gelling agent in the range of 5.1-30% w/w. Combining the universal sauce of Hamm with the pasta of Gosselin substantially reduces the percentage of the gelling agent in the frozen dinner product which will result in an amount of gelling agent below the range of 5.1-30% w/w as recited in amended claims 1 and 20. Thus, the combination of the Gosselin and Hamm references will not result in the inventive process of amended claim 1 and the inventive product of amended claim 20. Therefore, Applicant respectfully asserts that since the Gosselin and Hamm references fail to make obvious the subject matter of amended independent claims 1 and 20, a rejection under 35 U.S.C. 103(a) cannot be sustained. Since dependent claims 2-3, 5, 12, 13, 16, 17, and 21-22 depend at least in part on amended independent claim 1 or 20, they by definition are not made obvious by the cited references. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the outstanding rejection of claims 1-3, 5, 12, 13, 16, 17, and 20-22 under 35 U.S.C. 103 as having subject matter unpatentable over U.S. Pat. No. 6,743,452 to Gosselin in view of U.S. Application No. 2003/0203096 to Hamm.

35 USC § 103

Claims 1, 2, 9, 10, 12 and 16 have been rejected under 35 U.S.C. 103(a) as having subject matter unpatentable over JP Application No. 11-211469 to Ishii in view of U.S. Pat. No. 3,930,050 to Faber. Applicant respectfully traverses.

Ishii discloses a frozen cooked food product in which cooked pasta or rice is packaged with a gelatinous sauce and frozen. The gelatinous sauce prevents the seasoning liquid from absorbing into the pasta or rice prior to heating. Faber is directed to a process for preparing gelatin dessert in which small amounts of bromelain and papain enzymes are added to prevent the desserts from becoming rubbery or crack when stored over extended periods of time.

In considering obviousness, all claim limitations must be considered. *In re Evanega*, 829 F.2d 1110, 4 USPQ2d 1249 (Fed. Cir 1987). Amended independent claim 1 includes the limitation that the gelled food product contains the gelling agent in the range of 5.1-30% w/w. The Ishii reference does not disclose the amount of gelling agent added to the sauce and the Faber references adds no new teaching to Ishii that would result in the inventive process of amended independent claim 1. Therefore, Applicant respectfully asserts that since the Ishii and Faber references fail to make obvious the subject matter of amended independent claim 1, a rejection under 35 U.S.C. 103(a) cannot be sustained. Since dependent claims 2, 9, 10, 12 and 16 depend at least in part on amended independent claim 1, they by definition are not made obvious by the cited references. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the outstanding rejection of claims 1, 2, 9 10, 12 and 16 under 35 U.S.C. 103 as having subject matter unpatentable over JP Application No. 11-211469 to Ishii in view of U.S. Pat. No. 3,930,050 to Faber.

CONCLUSION

In view of the above amendment, applicant believes the pending application is in condition for allowance.

A one month extension fee is included with this response. If fee additional fees are due, please charge our Deposit Account No. 06-2375, under Order No. HO-P02734US1 from which the undersigned is authorized to draw.

Dated: 10-12-06

Respectfully submitted,

By _____
Jan K. Simpson
Registration No.: 33,283
FULBRIGHT & JAWORSKI L.L.P.
Fulbright Tower
1301 McKinney, Suite 5100
Houston, Texas 77010-3095
(713) 651-5151
(713) 651-5246 (Fax)
Attorney for Applicant